

IN THE SUPREME COURT OF THE STATE OF DELAWARE

SHERWOOD N. BELFIELD,	§
	§ No. 255, 2021
	§
Defendant Below,	§
Appellant,	§
	§ Court Below–Superior Court
v.	§ of the State of Delaware
	§
STATE OF DELAWARE,	§ Cr. ID No. 1810000958A (S)
	§ 1810000958B (S)
Plaintiff Below,	§
Appellee.	§

Submitted: January 20, 2022

Decided: February 15, 2022

Before **SEITZ**, Chief Justice; **VALIHURA** and **MONTGOMERY-REEVES**, Justices.

ORDER

After careful consideration of the notice to show cause and the parties' responses, it appears to the Court that:

(1) On August 12, 2021, the appellant, Sherwood Belfield, filed a notice of appeal from the Superior Court's July 16, 2021 order denying his motion for an evidentiary hearing. On December 6, 2021, the Senior Clerk issued a notice directing Belfield to show cause why his appeal should not be dismissed based upon this Court's lack of jurisdiction to entertain a criminal interlocutory appeal. In his response to notice to show cause, Belfield argues that we should consider his appeal

because the Superior Court did not transfer the record to this Court as directed by the Senior Court Clerk and that the Superior Court erred by denying his motion for postconviction relief. In his amended response, Belfield argues that this Court should liberally construe his pleadings in light of his limited educational background. Belfield does not address the jurisdictional issue raised in the notice to show cause. The State has also responded to the notice to show cause and argues that Belfield's appeal should be dismissed as either an untimely attempt to appeal the Superior Court's denial of his motion for postconviction relief or an impermissible appeal from an interlocutory order.

(2) It is not entirely clear if Belfield filed the motion for an evidentiary hearing in an effort to re-litigate his first motion for postconviction relief—which the Superior Court denied on March 9, 2021¹—or to expand the record in order to file a second motion for postconviction relief. In any event, this appeal must be dismissed.

(3) First, if Belfield filed the motion in an effort to re-litigate his motion for postconviction relief, it was filed well outside of the time for a motion for reargument² and did not toll the time for filing a timely notice of appeal from the Superior Court's March 9, 2021 order. A timely notice of appeal from the Superior

¹ *State v. Belfield*, 2021 WL 872648 (Del. Super. Ct. Mar. 9, 2021).

² A timely motion for reargument was due on or before March 15, 2021. *See State v. Brown*, 2019 WL 3249402, at *2 (Del. Super. Ct. July 18, 2019).

Court's March 9, 2021 order was due on or before April 8, 2021. Time is a jurisdictional requirement.³ Unless an appellant can demonstrate that the failure to file a timely notice of appeal is attributable to court-related personnel—a claim that Belfield does not make—an untimely appeal cannot be considered.⁴

(4) Second, if the motion was filed because Belfield intends to file a future motion for postconviction relief, the Superior Court's order denying it is interlocutory.⁵ This Court has no jurisdiction to review an interlocutory order in a criminal case.⁶

NOW, THEREFORE, IT IS HEREBY ORDERED, under Supreme Court Rule 29(b), that the appeal is DISMISSED.

BY THE COURT:

/s/ Collins J. Seitz, Jr.
Chief Justice

³ *Carr v. State*, 554 A.2d 778, 779 (Del. 1989).

⁴ *Bey v. State*, 402 A.2d 362, 363 (Del. 1979).

⁵ *See, e.g., Whitfield v. State*, 2007 WL 2751208 (Del. Aug. 13, 2007) (dismissing an appeal from the denial of a motion to compel evidence to support an as-yet-unfiled motion for postconviction relief).

⁶ Del. Const. art. IV, § 11(1)(b).